

CIVIL CASE INFORMATION STATEMENT		Court of Appeal Case Number (if known):
COURT OF APPEAL, <u>SECOND</u> APPELLATE DISTRICT, DIVISION <u>P</u>		B222286
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Steven M. Cischke, Esq. (Bar # 125612) Law Offices of Rheuban & Gresen 15910 Ventura Boulevard, Suite 1610 Encino, CA 91436 TELEPHONE NO.: (818) 815-2727 FAX NO. (Optional): (818) 815-2737 E-MAIL ADDRESS (Optional): sc@rglawyers.com ATTORNEY FOR (Name): CHRISTOPHER LEE DUNN, Plaintiff		FOR COURT USE ONLY CITY ATTORNEY 2010 MAR -1 AM 11:54
APPELLANT: Christopher Lee Dunn RESPONDENT: City Of Burbank and Dennis A. Barlow		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central District		
JUDGES (all who participated in case): Department 40, Michelle R. Rosenblatt, Presiding; Department 31, Alan S. Rosenfield, Presiding; Department 86, David Yaffe, Presiding		Superior Court Case Number: BC 418792
NOTE TO APPELLANT: You must file this form with the clerk of the Court of Appeal within 10 days after the clerk mails you a notice that this form must be filed. You must attach to this form (1) a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered") and (2) proof of service of this form on all parties to the appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2), or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).		

PART I - APPEAL INFORMATION

A. APPEALABILITY

1. Appeal is from:

- ☐ Judgment after jury trial
☐ Judgment after court trial
☐ Default judgment
☐ Judgment after an order granting a summary judgment motion
☐ Judgment of dismissal under Code Civ. Proc., §§ 581d, 583.250, 583.360, or 583.430
☐ Judgment of dismissal after an order sustaining a demurrer
☐ An order after judgment under Code Civ. Proc., § 904.1(a)(2)
☒ An order or judgment under Code Civ. Proc., § 904.1(a)(3)-(13)
☒ Other (describe and specify code section that authorizes this appeal): Judgment entered on January 12, 2010 CCP § 904.1(a)(1)

2. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

☒ Yes ☐ No If no, please explain why the judgment is appealable:

B. TIMELINESS OF APPEAL (Provide all applicable dates.)

1. Date of entry of judgment or order appealed from: 11 / 06 / 09 - Order, 1/12/2010 - Judgment
 2. Date that notice of entry of judgment or a copy of the judgment was mailed by the clerk or served by a party under California Rules of Court, rule 8.104: 01 / 15 / 10 Judgment
 3. Was a motion for new trial, judgment notwithstanding the verdict, reconsideration, or to vacate the judgment made and denied?
☐ Yes ☒ No If yes, please specify the type of motion:

Date motion filed: ____/____/____ Date denied: ____/____/____ Date denial served: ____/____/____

4. Date notice of ☒ appeal or ☐ cross-appeal filed: 02 / 08 / 10

C. BANKRUPTCY OR OTHER STAY

Is there a related bankruptcy case or a court-ordered stay that affects this appeal? ☐ Yes ☒ No (If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)

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2-26-10

APPELLATE CASE TITLE:

Dunn v. City of Burbank, et al.

SUPERIOR COURT CASE NUMBER:

BC 418792

D. APPELLATE CASE HISTORY (Provide additional information, if necessary, on attachment I.D.)

Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court? ☐ Yes ☒ No If yes, insert name of appellate court:

Appellate court case no.:

Title of case:

Name of trial court:

Trial court case no.:

E. SERVICE REQUIREMENTS

Is service of documents in this matter, including a brief or a petition, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute? Yes ☐ No ☒ If yes, please indicate the rule or statute that applies.

☐ Rule 8.29☐ Bus. & Prof. Code, § 17209 (Unfair Competition Act)☐ Bus. & Prof. Code, § 17536.5 (False advertising)☐ Civ. Code, § 51.1 (Unruh, Ralph, or Bane Civil Rights Acts; antiboycott cause of action; sexual harassment in business or professional relations; civil rights action by district attorney)☐ Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing)☐ Gov. Code, § 4461 (Disabled access to public buildings)☐ Gov. Code, § 12656(a) (False Claims Act)☐ Health & Saf. Code, § 19954.5 (Accessible seating and accommodations)☐ Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations)☐ Other (please specify statute):

NOTE: The rule and statutory provisions listed above require service of a copy of a party's brief or petition and brief on the Attorney General or other public officer or agency. Other statutes requiring service on the Attorney General or other public officers or agencies may also apply. (See, e.g., Code Civ. Proc., § 1355; Gov. Code, § 946.6(d); Pub. Resources Code, § 21167.7.)

PART II – NATURE OF ACTION

A. Nature of action (check all that apply):

1. ☐ Conservatorship2. ☐ Contract3. ☐ Eminent domain4. ☐ Equitable action a. ☐ Declaratory relief b. ☐ Other (describe):5. ☐ Family law6. ☐ Guardianship7. ☐ Probate8. ☐ Real property rights a. ☐ Title of real property b. ☐ Other (describe):9. ☒ Torta. ☐ Medical malpracticeb. ☐ Product liabilityc. ☐ Other personal injuryd. ☐ Personal propertye. ☒ Other tort (describe): Defamation10. ☐ Trust proceedings11. ☐ Writ proceedings in superior courta. ☐ Mandate (Code Civ. Proc., § 1085)b. ☐ Administrative mandate (Code Civ. Proc., § 1094.5)c. ☐ Prohibition (Code Civ. Proc., § 1102)d. ☐ Other (describe):12. ☐ Other action (describe):B. ☐ This appeal is entitled to calendar preference/priority on appeal (cite authority):

PART III – PARTY AND ATTORNEY INFORMATION

Please attach to this form a list of all the parties and all their attorneys of record who will participate in the appeal. For the parties, include the following information: the party's name and his or her designation in the trial court proceeding (plaintiff, defendant, etc.). For the attorneys, include the following information: name, State Bar number, mailing address, telephone number, fax number, and e-mail address.

Date: February 24, 2010

This statement is prepared and submitted by:

Steven M. Cischke, Esq.

(SIGNATURE OF ATTORNEY OR UNREPRESENTED PARTY)

PARTY IDENTIFICATION SHEET
(Only parties to the appeal are to be listed)

The Party Identification Sheet is a required attachment to the Case Information Statement form filed within the jurisdiction of the Second Appellate District. [The Party Identification Sheet may also be used with the Notice of Appeal form (APP-002).]

Only those persons or entities that are *parties to the appeal* are to be listed. Counsel identifying information must include counsel's name, firm name, state bar number, address, and phone number. Unrepresented parties should appear in the Counsel column with the appropriate contact information.

Party

Counsel

Name:

Christopher Lee Dunn, Plaintiff

Appellant ☒

Respondent ☐

Name:

Solomon E. Gresen, Esq.
Steven V. Rheuban, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, California 91436
Telephone: (818) 815-2727
Facsimile: (818) 815-2737

State Bar No.

164783
48538

Name:

City of Burbank, Defendant

Appellant ☐

Respondent ☒

Name:

Kristin A. Pelletier, Esq.
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071
Telephone: (213) 236-0600
Facsimile: (213) 236-2700

State Bar No.

155378

Name:

Dennis A. Barlow, Defendant

Appellant ☐

Respondent ☒

Name:

Kristin A. Pelletier, Esq.
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
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State Bar No.

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Name:

Appellant ☐

Respondent ☐

Name:

State Bar No.

Kristin A. Pelletier, (SBN 155378)
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Attorneys for Defendants
City of Burbank and City Attorney
Dennis Barlow

ORIGINAL FILED

JAN 12 2010

**LOS ANGELES
SUPERIOR COURT**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CHRISTOPHER LEE DUNN,

Plaintiff,

v.

**CITY OF BURBANK, DENNIS
BARLOW and DOES 1 Through 25,
Inclusive,**

Defendants.

Case No. BC 418792

[PROPOSED] JUDGMENT

On October 8, 2009, the Court, the Honorable Irving Shimer, granted defendants the City of Burbank and Dennis Barlow's ("defendants") special motion to strike plaintiff Christopher Dunn's Complaint. On November 6, 2009, the Court entered a written order granting the motion and striking the Complaint pursuant to California Code of Civil Procedure § 425.16.

On December 8, 2009, defendants moved for attorneys' fees under California Code of Civil Procedure § 425.16(c). That motion was heard by this Court on January 10, 2010, with all parties represented by counsel. Joseph M. Levy, Esq. of Law Offices of Rheuban & Gresen appeared for plaintiff Christopher Dunn ("plaintiff"). Kristin A. Pelletier, Esq. of Burke, Williams & Sorensen, LLP appeared for defendants. After considering the moving and opposing papers and the evidence and arguments offered by the parties, the Court granted the motion for attorneys' fees and awarded fees in the amount of \$22,508.50.

1 Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED that judgment on
2 plaintiff's Complaint be entered in favor of defendants and against plaintiff, with defendants to
3 recover from plaintiff their attorneys' fees in the amount of \$22,508.50.
4

5 Dated: 1-12-10

MICHELLE R. ROSENBLATT

The Honorable Michelle L. Rosenblatt
Los Angeles Superior Court Judge

ORIGINAL

FILED

LOS ANGELES SUPERIOR COURT

NOV - 6 2009

JOHN A. CLARKE, CLERK

Jeff W. Lipp
BY JEFF W. LIPP, DEPUTY

REC'D

OCT 15 2009

FILING WINDOW

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Attorneys for Defendants
City of Burbank and City Attorney
Dennis Barlow

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CHRISTOPHER LEE DUNN,

Plaintiff,

v.

CITY OF BURBANK, DENNIS
BARLOW and DOES 1 Through 25,
Inclusive,

Defendants.

Case No. BC 418792

**[PROPOSED] ORDER GRANTING
SPECIAL MOTION TO STRIKE**

The Special Motion to Strike (CCP § 425.16) and Demurrer of defendants the City of Burbank and Dennis Barlow (collectively "Defendants") came on regularly for hearing before this Court on October 8, 2009. Kristin Pelletier appeared on behalf of the Defendants and moving parties, and Solomon Gresen appeared on behalf of plaintiff Christopher Lee Dunn ("Plaintiff").

After considering the moving and opposing papers, the evidence, and the arguments of counsel, the Court GRANTED Defendants' Special Motion to Strike Plaintiff's Complaint in its entirety, on the ground that Plaintiff failed to introduce evidence to substantiate his claims in

1 response to Defendants' showing that their speech was protected by CCP § 425.16(e). The
2 granting of the Special Motion to Strike rendered the demurrer moot.

3
4 Defendants are entitled to recover their attorneys' fees in accordance with CCP §
5 425.16(c). Upon the request of the parties, the Court will set a hearing to determine the amount
6 of the fee award.

7
8 DATED: 10-6-07
9 *JM* 11-6-09


The Hon. Irving Shimer
Judge of the Los Angeles Superior Court

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[PROPOSED] ORDER GRANTING SPECIAL MOTION TO STRIKE

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles. I am over the age of eighteen and am not a party
4 to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino, California
91436.

5 On February 26, 2010, I served a copy of the following document described as :
6 (1) Civil Case Information Statement; (2) Party Identification Sheet; (3) Judgment; and (4) Order
Granting Special Motion to Strike on the interested parties in this action as follows:

7 Carol Ann Humiston
8 Senior Assistant City Attorney
9 Office of the City Attorney
275 East Olive Avenue,
Burbank, California 91510-6459
Facsimile: (818) 238-5724
Email: chumiston@ci.burbank.ca.us

Kristin A. Pelletier, Esq.
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071
Facsimile: (213) 236-2700
Email: chumiston@ci.burbank.ca.us

11 XX **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope(s) addressed as
12 above, and placing each for collection and mailing on that date following ordinary business
13 practices. I am "readily familiar" with this business's practice for collecting and processing
14 correspondence for mailing. On the same day that correspondence is placed for collection
and mailing, it is deposited in the ordinary course of business with the U.S. mail Postal
Service in Los Angeles, California, in a sealed envelope with postage fully prepaid.

15 **BY FACSIMILE:** Based on an agreement of the parties to accept service by facsimile
16 transmission, I faxed the documents to the person(s) at the facsimile numbers listed above.
The telephone number of the sending facsimile machine is (818) 815-2737. The sending
17 facsimile machine issued a transmission report confirming that the transmission was
complete and without error. A copy of that report showing the time of service is attached.

18 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
19 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
documents to be sent to the person(s) at the e-mail address listed above. My electronic
20 notification address is dj@rglawyers.com. I did not receive, within a reasonable time after
the transmission, any electronic message or other indication that the transmission was
21 unsuccessful. A copy of the electronic transmission showing the time of service is attached.

22 XX **STATE:** I declare under penalty of perjury under the laws of the State of California that the
23 above is true and correct.

24 EXECUTED on February 26, 2010, at Encino, California.

25 _____
Daphne Johnson